

traversed. Eppich discloses a dust cover, which is preferably constructed of a polycarbonate material, which permits the component parts to be modularly interlocked with one another to effectively form a single housing unit (Col 11, lines 1-8). It thus has an integral dust cover, which is mounted on its modular container into which the electronic components are sealed. One of its objectives is "to provide a rugged modular housing unit for protecting the electronic circuitry contained therein when the unit is utilized in a variety of different environments." Col. 2 lines 50-53. *Eppich* accomplishes this objective with a modular impervious housing container for electronic apparatuses, which may include an integral dust cover. *Eppich* is comprised of a closed bottom impervious container base with an open top into which various electronic components are inserted and interconnected. These electronic components are sealed within the impervious container base and covered with a keyboard top. The keyboard top may be covered with a dust proof hinged top fitting within a groove along the top of the keyboard top. Therefore, Eppich has an integral dust cover attached to its modular casing enclosing various electronic components therein to prevent dust and debris from getting into its keyboard. Shocks to this Eppich dust cover are therefore directed onto its base, which could affect the electronics.

Conversely, Claim 9 of applicant's invention is directed to a non-integral cover independent of and surrounding a bank card terminal. It is designed to contact and be supported by a non-integral support surface. Applicant's invention is a crush resistant cover with a closed top and extending sides defining an open bottom, which extends about and provides a barrier to protect bankcard terminals from falling objects, liquids, dust, and grease. The invention provides a protective independent housing surrounding the bankcard terminal itself to protect it from contact damage, which insures that the electrical components of the bankcard terminal are not affected. No similar force diverting structure is found in *Eppich*, which has an integral dust cover covering the keyboard as part of its housing unit.

As the *Eppich* dust cover is supported by its housing unit, it does not shield the electronic device itself from the shock forces of objects dropped onto it. The shock of objects dropped on the *Eppich* dust cover may affect the electrical component alignment mounted within its housing unit. Therefore, nothing in *Eppich* suggests its modification to provide an independent bankcard terminal cover forming an independent protective

barrier shield covering device to prevent blows from damaging the electrical components of the bank card terminal. Nor does *Eppich* direct liquids and dust away from the electronic device onto the non-integral support surface. Instead, fluids may accumulate into the grooves of the keyboard top into which the *Eppich* dust cover fits. The rejection of Claim 1 is therefore improper and should be withdrawn.

Nor does the *Eppich* Fig. 16 hinged dust cover embodiment disclose applicant's hinged embodiment of Claim 10. The *Eppich* Fig. 16 fails to suggest the embodiment of applicant's invention in the same manner, the same way, with the same components to be considered an equivalent embodiment. The rejections of Claim 2 should therefore be withdrawn.

As *Eppich* does not contain a handle affixed to the cover, which is supported by the non-integral support surface, it does not disclose applicant's embodiment of Claim 11, and this rejection should also be withdrawn.

Although *Eppich* suggests a transparent cover, it does not suggest a cover supported by the non-integral support surface. It therefore does not disclose applicant's embodiment of Claim 12, and the rejection should be withdrawn.

Nor does *Eppich* suggest a shock absorbing seal affixed to the open bottom of the cover sidewalls as it does not contact a non-integral support surface. It therefore does not disclose applicant's embodiment of Claim 13 and the rejection should be withdrawn.

As *Eppich* discloses a dust cover integral to the container holding a device's electronic components, it does not suggest the non-integral barrier container embodiments of Claims 14 and 15. The rejection of Claims 14 and 15 should therefore be withdrawn.

Nor does *Eppich* address the terminal cover embodiment of Claim 16, mounted on a vertical non-integral support surface independent of the bank card terminals and cover. To supply this deficiency, the Examiner has combined the Eckel et al, U.S. Patent No. 4,727,934 reference with *Eppich* even though nothing in the references themselves suggest combining them.

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable

expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). §2143 MPEP

“Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992)

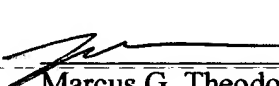
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The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir.1990) §2143.01 MPEP

Without some suggestion in the references themselves to combine them in the manner suggested by the examiner, the combination was improper to reject Claim 16 embodiment. Further, although the Eckel et al component container may be mounted to a wall, it does not direct the shock from blows to the case away onto a non-integral vertical support surface to prevent damage to the electrical components. Therefore, nothing Eppich or Eckel et al suggests applicant's invention of Claim 16, and the rejection should be withdrawn.

Nor has the Examiner identified the level of ordinary skill in the arts for applicant to respond thereto, or where those features are located to support the resultant combination used to reject Claims 9 through 16.

In summary, the *Eppich* disclosure does not suggest applicant's invention, which essentially provides a crush resistant, independent protective liquid and dust pervious barrier surrounding bankcard terminal. *Eckel et al* fails to provide any of the deficiencies with the Eppich reference pointed out above. Therefore, claims 9 through 16, should be passed for allowance. If additional amendments are required, a telephone conference with the Examiner is requested.

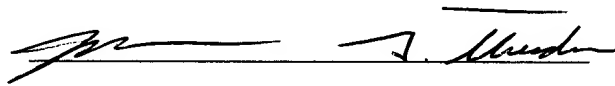
Dated this 1st day of April 2003.


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CERTIFICATE OF MAILING

I certify that I facsimile transferred to 703-308-7722 and mailed a true and correct copy of the Foregoing Third Amendment to the Commissioner of Patents, Washington, D.C. 20231, postage prepaid, this 1st day of April 2002.

A handwritten signature in black ink, appearing to read "J. Menden", is written over a horizontal line.